



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

June 26, 2014

The Honorable Sam Graves
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding ongoing efforts by the Department of Health and Human Services (HHS or Department) to support small businesses that choose to offer health insurance to their employees. Secretary Burwell has asked me to respond on her behalf.

HHS is working with federal partners and state agencies to ensure that small business owners who want to provide coverage to employees can do so through the Small Business Health Options Program (SHOP) Marketplaces, which are designed to serve the health coverage needs of small business owners and employees.

The Department appreciates your concerns about SHOP implementation, and we will continue to work with our federal partners and state agencies to ensure small employers receive accurate, timely, and consistent information about deadlines and requirements. In November 2013, the Centers for Medicare & Medicaid Services (CMS) announced that as a transitional measure until online enrollment functionality is available, small employers in states with a Federally-facilitated SHOP Marketplace may use a process called "direct enrollment" to enroll their employees in SHOP coverage that begins in 2014. Federally-facilitated SHOP "direct enrollment" can be completed with the help of an agent, broker, or insurer that offers a certified SHOP plan and has agreed to conduct enrollment according to the requirements set by HHS for the Federally-facilitated SHOP Marketplace. More information on the direct enrollment process is available at: <http://marketplace.cms.gov/getofficialresources/publications-and-articles/faqs-on-shop-enrollment.pdf>.

For states with a SHOP Marketplace run by the federal government, HHS announced an extension of the enrollment deadline from December 15, 2013, to December 23, 2013, to help small employers who sought to offer their employees coverage on January 1, 2014. We offered the direct enrollment process and provided an extension of the enrollment deadline to allow small employers in states with a Federally-facilitated SHOP Marketplace to offer their employees coverage that took effect as early as January 1, 2014. Recently, HHS also announced through guidance that state-based SHOPs may also use the same direct enrollment approach that the Federally-facilitated SHOP implemented for 2014, as a transitional measure while getting their online state-based SHOPs up and running. More information on this guidance may be found at: <http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/retroactive-advance-payments-ptc-csrs-03-14-14.pdf>.

Additionally, HHS finalized a regulation, Exchange and Insurance Market Standards for 2015 and Beyond, which can be found here: <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/508-CMS-9949-F-OFR-Version-5-16-14.pdf>, that will permit state insurance commissioners to recommend that the SHOP in their state, whether Federally-facilitated or State-based, not implement employee choice in 2015. Under this regulation, the state insurance commissioner must submit a written recommendation to the SHOP adequately explaining that it is the state insurance commissioner's expert judgment, based on a documented assessment of the full landscape of the small group market in his or her state, that not implementing employee choice would be in the best interests of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. A state insurance commissioner's recommendation must be based on concrete evidence, including but not limited to discussions with those issuers expected to participate in the SHOP in 2015. This transitional policy will apply to 2015 only, as HHS remains committed to implementing employee choice in all SHOPS by 2016.

In November 2014, HHS expects to launch an online enrollment portal for small employers to access the SHOP Marketplace in states with a Federally-facilitated SHOP. We expect this portal to support the employee choice and premium aggregation options that will be available in a Federally-facilitated SHOP for plan years beginning on or after January 1, 2015, unless the Federally-facilitated SHOP does not implement employee choice in 2015 based on a state insurance commissioner's recommendation.

To help small employers, CMS has successfully trained over 78,000 insurance agents and brokers nationwide to assist individual consumers, employees, and employers in understanding their options and to assist with Marketplace enrollment. We have also delayed enforcement of the employer shared responsibility fee for employers with 50 to 99 employees until 2016.

The Small Business Administration (SBA) also plays a critical role in outreach. In an effort to provide on-going outreach and education to small employers, we partner together with the Small Business Majority to provide a weekly webinar for small businesses with dates scheduled throughout 2014. The webinar is called "ACA 101" and focuses on the pieces of the Affordable Care Act that affect small businesses. We also continue to provide educational materials to small businesses, employers, and employees that include enrollment information and details on how the Affordable Care Act may affect them. For example, the SBA has launched the <http://Business.USA.gov/healthcare> website, which provides resources from the Departments for employers looking for information on the Affordable Care Act.

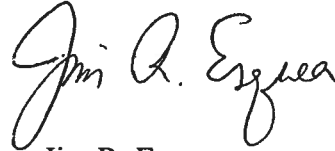
In addition, HHS is operating the Health Insurance Marketplace Call Center for Small Employers. Small employers in all states may reach the call center by dialing 1-800-706-7893 (TTY: 1-800-706-7915), Monday through Friday, from 9:00 am to 7:00 pm Eastern Time. Call center representatives can answer basic questions about the Affordable Care Act's employer shared responsibility provision, and can help small employers understand how to offer coverage to employees through the Federally-facilitated SHOP Marketplace available in 33 states. They are also able to aid insurance agents and brokers assisting small employers purchasing SHOP coverage through the Federally-facilitated SHOP Marketplace. I hope that you and other members of Congress will direct small employers with Marketplace questions to our call center.

The Honorable Sam Graves
Page 3

As the Affordable Care Act continues to be implemented, the Department and CMS are committed to leveraging our resources and federal partnerships with the SBA and others to ensure that small business owners have the facts and resources they need to understand and benefit from the law.

Again, thank you for your letter and your continued support of small businesses. Please do not hesitate to contact this office if you have any further thoughts or concerns.

Sincerely,

A handwritten signature in black ink, reading "Jim R. Esquea". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jim R. Esquea
Assistant Secretary for Legislation

cc: The Honorable Nydia M. Velázquez
Ranking Member